IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 1755 of 2005

Between:

M/s. B. Seenaiah, & Company (Projects) Limited, rep. by its Director-Sri P.S.Reddy, having its registered Offict at 6-2-913/914, Vth Floor, Progressive Towers, Khairtabad, Hyderabad, rep. by its Director-Sri P.S.Reddy.

..... PETITIONER

AND

1 The Commissioner for Workmen's Compensation and - Asst.

Commissioner of Labour, Mahabubnagar, Mahaboobnagar

District.

2 Sri D. Venkateshwarlu, S/o. Ralanna Mojerla Village,
Peddamandadi Mandal, Mahabubnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, direction, order or orders more particularly one in the nature of writ of certiorari calling for the records pertaining to the impugned proceedings No.A/W.C.1106/2004(F)-I, dt. 18.12.2004 issued by the first respondent and quash the same as illegal, arbitrary, contrary to Sec. 10 (2) & (3) of the W.C. Act and violative of Principles of natural justice.

Counsel for the Petitioner:MR.A.CHANDRAIH NAIDU

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: MR. T. DAMODAR.

The Court at the admissions stage made the following :

ORDER;

The petitioner is an employer of the deceased workman by name Smt D. Balamma as contract labour. She met with an accident during the course of employment on 07-11-2004 and died due to scorpion bite on the same day while undergoing treatment in the hospital. Thereafter, on 7-12-2004, the petitioner intimated about the death of the deceased woman to the Commissioner for Workmen's Compensation Act, Mahabubnagar. Subsequently, the Commissioner, instead of proceeding with the matter as per the procedure prescribed under Section 10-A of the Workmen Compensation Act (For short' the Act'), passed the impugned order on 18-12-2004 directing the petitioner to deposit Rs.2,33,171/- within fifteen days from the date of receipt of the said notice. Aggrieved by the same, the petitioner filed this writ petition calling for the records pertaining to the impugned proceedings dated 18-12-2004 issued by the first respondent and declare the same as illegal and arbitrary and contrary to Section 10(2) & (3) of the Workmen's Compensation Act.

Section 10-A of the Workmen's Compensation Act, 1923 (for short 'the Act') reads as under;

1. whenever a commissioner receives information that a workman died as a result of an accident during the course of employment, he has to send by registered post a notice to the workman's employer requiring to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death

2. If the employer is of opinion that he is liable to deposit the compensation, he shall make the deposit within thirty days of

service of the notice.

3. If the employer is of opinion that he is not liable to deposit the compensation, he shall file a statement indicating the grounds on which he disclaims liability.

4. If the employer disclaims the liability, the commissioner has to conduct an enquiry and inform the dependants of the deceased workman that they shall prefer a claim for compensation .

The Commissioner for Workmen's Compensation Act, Mahabubnagar, instead of following the procedure as contemplated under Section 10-A of the Act, passed the impugned order directing the petitioner to deposit the amount without giving him any notice or opportunity to place any material either to deny or admit the liability.

In the light of the above circumstances, the impugned order cannot be sustained.

Accordingly, the Writ Petition is allowed. The impugned order dated 18-12-2004 is set aside. The matter is remitted back to the Commissioner for Workmen's Compensation, Mahabubnagar to restore the matter to its original file and pass appropriate orders after following the procedure prescribed under Section 10-A of the Act by giving opportunity to both parties. No costs.

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26-04-2005

sj

To

1 The Commissioner for Workmen's Compensation and - Asst. Commissioner of Labour, Mahabubnagar, Mahaboobnagar District.

2. Two CCs to the Government Pleader for Labour, High Court Building, Hyderabad. (OUT).

3. Two C.D. copies.